UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YOR	
HERBERT FEINBERG,	X : :
Plaintiff,	: Civil Action No. 15-CV-5198 (RA)
-against-	: :
APPLE INC.,	: :
Defendant.	: :
	X

NOTICE OF DEFENDANT'S MOTION TO DISMISS THE SECOND AMENDED COMPLAINT

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law, dated January 5, 2016, the accompanying Declaration of Gabrielle Levin, dated January 5, 2016, and the exhibits attached thereto, and all prior papers and proceedings had herein, Defendant Apple Inc. will respectfully move this Court, before the Honorable Ronnie Abrams, at a date and time to be determined by the Court, for an order dismissing Plaintiff's Second Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction, for an order dismissing Plaintiff's Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state any plausible claims upon which relief can be granted, and granting such other and further relief as the Court deems appropriate.

Dated: January 5, 2016

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Adam H. Offenhartz

Adam H. Offenhartz Gabrielle Levin 200 Park Avenue, 48th Floor New York, NY 10166-0193 Telephone: 212.351.4000

Facsimile: 212.351.4000

Attorneys for Defendant Apple Inc.